

ORIGINAL

25 July 2002

Mr. William F. Caton
Acting Secretary
Federal Communications Commission
455 12th Street, SW
Room TW-A325
Washington, DC 20554

RECEIVED & INDEXED
AUG - 2 2002
FCC - MAILROOM

Subject: *Ex parte* communication re: Section 68.4(a) of the Commission's Rules Governing Hearing Aid-Compatible Telephones on the Notice of Proposed Rule Making, WT Docket No. 01-309, RM-8658

Dear Mr. Caton:

I am writing on behalf of AUDEX, Inc. of Longview, Texas – a company that is focused on developing technologies that improve individuals' access to Personal Communication Services through adaptive hearing interfaces – in response to the Notice of Proposed Rulemaking (NPRM), released by the Commission on November 14, 2001, (WT Docket No. 01-309). This NPRM addresses the current Commission rule that exempts Personal Communication Services (including public mobile services) from being required to comply with the Hearing Aid Compatibility Act of 1988. This NPRM also calls for comment from interested parties in this matter to assist the Commission in reviewing the exemption rule to determine if any changes should be made at this time.

Our Experience and Position

AUDEX, founded originally as Audiometrics, Inc., over the past forty years has developed a leadership position and a strong industry reputation as a provider of supplementary public-address systems for persons with hearing loss at large performance venues and public arenas. These systems enable venue operators – including current customers Carnival Cruise Lines, Disney and Universal Studios, as examples – to achieve Americans with Disabilities Act (ADA) compliance and to better serve *all* of their customers with a rich, multimedia experience. AUDEX also was the first technology company to adapt analog cellular telephones for use with hearing-aid T-coils

This experience has provided AUDEX with a unique vantage point from which to continue to develop innovative solutions, based on adaptive hearing interfaces that enable persons with hearing loss to access Personal Communication Services in the same way that non-disabled individuals can do today.

AUDEX has spent the last two years on research and development efforts to bring to market a new hearing-assistance technology product line focused on enabling the 28 million Americans with hearing loss, including the more than 6 million persons using hearing aids in the US, to be able to make use of digital Personal Communication Services. Our technology addresses interference issues using a unique design scheme, and the device provides a link between digital wireless handsets and T-coils in hearing aids. The product is designed as a low-profile accessory that fits on several Nokia handsets between the phone and its battery – which means that it is both convenient and discrete.

Given this position, AUDEX respectfully submits the following as an *ex parte* communication on the current NPRM.

No. of Copies rec'd 0
List ABCDE

Comments on the Notice of Proposed Rulemaking

AUDEX is encouraged by the Commission's review of this rule and believes such review is a necessary process that will continue to ensure that persons with hearing loss are not hindered in their access to Personal Communication Services, particularly public mobile telephone services.

Further, AUDEX is encouraged by the fact that significant advances have and will be made in the area of reducing interference between digital wireless mobile telephones and hearing aids over the past five years, and it is certainly in the public interest to insure that this progress continues; however, AUDEX does not believe that more extensive intervention by the Commission in this environment will necessarily have a desirable impact on this situation.

- AUDEX believes that the Hearing-Aid Compatibility Act exemption *should not* be lifted. Although AUDEX does concur that it is in the best *public interest* to ensure accessibility to Personal Communication Services, this does not necessarily constitute a condition of, nor should it require, additional levels of regulation on the wireless communication industry. It is incumbent upon the Commission to ensure that the intent of the Hearing-Aid Compatibility Act is achieved with the least amount of financial burden placed on carriers and handset manufacturers. Thus, given industry progress on this matter, AUDEX believes that lifting the exemption would cause undue financial burdens without substantially affecting or improving the status of technologies that can address interference between digital wireless handsets and T-coils in hearing aids.
- The FCC should require carriers and re-sellers of mobile-communication devices that license airwaves for public mobile telephone services to maintain sufficient quantities and varieties of supplementary technologies (which either actively or passively solve interference issues) so as to ensure widespread access among persons with hearing loss, but the Commission should not require that all handsets be hearing-aid compatible. AUDEX is convinced that supplementary technologies, such as the external adaptive hearing interfaces developed by our company, are a more cost-effective strategy for enabling access.
- The FCC, CTIA and TIA should work together to create a voluntary industry fund, the proceeds of which could be used to provide consumers with hearing-assistance technologies; contributors should be given tax exemptions/tax credits, as well as credits toward ongoing license/penalty fees as the FCC deems appropriate

Supporting Information

AUDEX bases its position, presented above, on several observations about the current environment for hearing-assistive and personal communication technologies:

- First, AUDEX has witnessed, first-hand, that industry partnerships are working. In the case of AUDEX, our company has worked directly with carrier and handset-manufacturer partners to produce solutions that address interference between digital wireless handsets and T-coils in hearing aids. Further, through such a working relationship, AUDEX has been able to develop devices that are cost-effective and that do not prove to be a burden on the users. As a supporting point, our CHAAMP device, which attaches to Nokia handsets and which reduces interference by as much as 95%, retails for less than US\$ 130, and AUDEX expects that over time this price will continue to come down with enhanced features.
- Second, it is important to recognize that devices and services that provide alternate means of mobile communication – e.g., text-messaging services, such as those provided by WyndTel – are already widely available to persons with hearing loss, and in certain circumstances they are a better fit for the unique challenges faced by individuals who experience severe or complete hearing loss.

- Third, while much emphasis has been placed on adapting T-coil technology to digital wireless handsets, it must be noted that new technologies may in the future provide alternative means for connection between hearing aids and digital wireless handsets. One promising technology is Bluetooth, which AUDEX believes in the future could be adapted to deliver a local digital connection to handsets used in conjunction with Personal Communication Services.
- Fourth, AUDEX believes additional advances/improvements *can* be made by hearing-aid manufacturers. To date, there has not been sufficient standardization and design improvement among hearing-aid device manufacturers on this issue, and continued work must be done in this regard before additional requirements are placed on other parties within the wireless industry.
- Fifth, while much emphasis continues to be placed on enabling access to digital services, dual-mode digital/analog and single-mode analog phones continue to be sold to persons with hearing loss – enabling analog connections that are free of any interference. To date, carriers continue to support analog networks, and new services (such as OnStar) continue to be developed that make use of these networks.

While this is not a complete list of the factors upon which AUDEX bases this letter of *ex parte* communication, our company nonetheless believes these points create a compelling picture of why lifting of the exemption is *neither* necessary *nor* appropriate at this time.

AUDEX has found that feedback from our initial marketing efforts of our CHAAMP device (mentioned earlier), which enables persons with hearing loss to use digital Personal Communication Services through adaptive hearing interface technologies, has been quite positive. We are confident that our current and future business partners among the carrier and handset-manufacturer communities will continue to embrace this solution as their own and to ensure that persons with hearing loss have sufficient access to the technology.

Finally, our executive team is available to comment further on this issue and/or to demonstrate the CHAAMP as may be appropriate in the course of the Commission's review of this matter.

Thank you for your time and consideration.

Sincerely,



Richard S. Mahley Jr., CEO
AUDEX, Inc.
(903) 295-8242

Cc: Douglas I. Brandon, Regulatory Counsel, AT&T Wireless
David G. Richards, Regulatory Counsel, Cingular Wireless
Mary Brooner, Director, Motorola, Inc.
Alfred R. Lucas, Vice President, Motorola, Inc.
Scott Freiermuth, Attorney, Sprint PCS
Luisa L. Lancetti, Vice President, Sprint PCS
John T. Scott, Vice President and Deputy General Counsel, Verizon Wireless
Alan Bender, General Counsel, VoiceStream